

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 13182 of 1993

Date of decision: 9-5-1997

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MAGHIBEN SAVABHAI VANKAR

Versus

DEPUTY EXECUTIVE ENGINEER

Appearance:

MR US BRAHMBHATT for Petitioner
Mr. H.L. Jani for Respondent No. 1
SERVED for Respondent No. 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 9-5-97

CAV JUDGEMENT

Heard the counsel for the parties.

The petitioner prayed for a direction to the

respondents to fix the pensionary benefits and to give her the benefits under G.P.F. Scheme. The petitioner was working as work charge employee from 21st December, 1984. She retired from service on 31st July, 1990. Order of retirement has been produced at annexure-B to the petition. Relying on the Government resolution annexure-D dated 8th January, 1976 the petitioner contended that the petitioner being a work charge employee is entitled to pension and G.P.F. scheme. This resolution provides that work charge employees in P.W.D. - now Narmada Water Resources Department - who have completed five years of continuous service on work charge establishment or work charge and temporary establishment or permanent establishment and retired on or after 8th January, 1976 should be treated at par with the persons on temporary establishment in P.W.D., now Narmada Water Resources Department, in the matter of pensionary benefits and G.P.F. scheme. The petitioner further contended that under the order annexure-A she was appointed as work charge employee with effect from 21st December, 1984. However, even if the petitioner's services are taken to be more than five years as a work charge employee, then too the question remains whether she can be given pension and benefit of G.P.F. as for pension the qualifying service should be of ten years.

2. The resolution dated 8-1-1976 of the Government provides that a work charge establishment employee will be entitled to pension in case he completes five years' service, which does not mean or purports that ten years' qualifying service for eligibility for pension is given up. Ten years' minimum service is provided for entitlement of pension and other benefits and in case of work charge employees further rider has been provided that the work charge service should have been of five years. In case the interpretation to the resolution dated 8th January, 1976 is given as canvassed by the counsel for the petitioner, then there will be different periods of qualifying service for work charge employees and employees other than work charge employees. It cannot be the intention behind the resolution dated 8-1-1976 that in the case of employees in permanent establishment and temporary establishment, for entitlement of pension benefits, qualifying service should be 10 years and in case of work charge establishment the qualifying service for pension should be 5 years. In view of the facts as discussed above, the claim of the petitioner for pension cannot be accepted as she has not to her credit 10 years qualifying service on the date on which she was ordered to retire from Government service. So far as the other claim of the

petitioner regarding G.P.F. benefit is concerned, the matter has to be considered by the respondents, as nothing has been brought on record to show that to become eligible for the said benefit more than five years' service is required.

3. In the result, so far as the claim of the petitioner regarding pension on the basis that she has worked for more than five years as work charge employee, the same is declined; but so far as the claim of the petitioner for G.P.F. benefit is concerned, respondent No.2 is directed to decide the same on merits within a period of two months from the date of receipt of certified copy of this order. This petition itself shall be treated as representation of the petitioner for this relief. In case the claim of the petitioner for the benefit of G.P.F. scheme is not acceptable, then a reasoned order may be passed and copy thereof may be sent to the petitioner by registered post. In case the claim of the petitioner is accepted, then she may be given all the consequential benefits within a period of next two months. The petitioner shall be entitled to interest thereon at the rate of 12% per annum from the date of filing of this petition, i.e. September, 1993. The writ petition stands disposed of accordingly. Rule discharged. No order as to costs.

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